IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 23499 of 2004

Between:

1 T.V. Satyanarayana, S/o. T.V.K. Rao,
R/o. 3-316/1, Ramakrishna Nagar, Rajahmundry, E.G.District.
2 B. Appa Rao, S/o. Narasimhulu,
Bommuru Road, Rajahmundry.
3 P. Izra Kumar, S/o. Late P.S. Kumar,
Peaceful Church, Balaji Peta, Rajahmundry, E.G.District.
4 Rev. Nathaneal,
Rajahmundry, E.G.District.
5 P. Raju, S/o. Simhachalam,
H.No. 3-10-80, Balaji Peta, Rajahmundry, E.G.District.

..... PETITIONERS

AND

1 Government of A.P., rep. by its Secretary, Proh.,& Excise Department, Secretariat, Hyderabad.
2 Commissioner of Proh., & Excise, Govt. of A.P., Nampally, Hyderabad-1.
3 Dy. Commissioner, Proh., & Excise, Kakinada, East Godavari District.
4 Superintendent of Proh.,& Excise, Kakinada, E.G.District.

5 Krishna Wines, rep. by its Proprietor,
Sri Ramakrishna, Located in H.No. 3-13-66, Balaji Peta, Rajahmundry.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction particularly one in the nature of writ of Mandamus to direct the respondents 2 to 4 to cancel the permission granted to the 5th respondent to run the wine shop at Premises bearing No. 3-13-66, Balaji Peta, Rajahmundry, East Godavari District, in the interests of justice of in the alternative to direct the respondents to shift the 5th respondent wine shop from the premises in question to a distance beyond 100 metres from Kanaka Durga Bhavani Temple and peaceful church situated in Balaji Peta, Rajahmundry, East Godavari District and allow the Writ Petition with costs and grant such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners : MR.P.RAVI

Counsel for the Respondent Nos. 1 to 4: GP FOR PROHIBITION & EXCISE

Counsel for the respondent No.5: None appeared.

The Court made the following :

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ORAL ORDER:

(per Hon’ble The Chief Justice)

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1. Prayer made by the petitioners in this case filed as public interest litigation is to issue direction to respondents 2 to 4 to cancel the permission granted to 5th respondent to run wine shop at premises No.3-13-66, Balaji Peta, Rajahmundry, East Godavari District, and to direct respondent No.5 to shift the shop in question to a distance beyond 100 metres from Kanaka Durga Bhavani temple and peaceful church situated in Balaji Peta, Rajahmundry, East Godavari District.

2. Petitioners have alleged that despite submission of representations dated 08.11.2004 and 19.11.2004 to 2nd respondent, no action has been taken in the matter and the permission to open the shop in the premises in question is in complete violation of the provisions of law, rules and regulations.

3. Learned counsel for the petitioners submits that as per the directions of the Court, notice was sent through post to respondent No.5 and acknowledgment has not been received so far.

4. Considering the facts and circumstances of the case, we dispose of the writ petition with direction to 4th respondent to treat this writ petition itself as representation along with the representations already submitted by the petitioners and pass appropriate orders in accordance with law after spot verification in the presence of the petitioners. In case there has been any

violation of any of the provisions of the Excise Act, Rules and Regulations framed thereunder, respondent No.4 will pass a positive order directing respondent No.5 to shift the shop, and in case respondent No.5 fails to comply the same, the Excise authorities will proceed to cancel the licence of respondent No.5. This exercise shall be done by respondent No.4 within a period of one week from the date of receipt of a copy of this order from this Court and petitioners will be informed of the action taken by him in the matter. In case petitioners still feel aggrieved by the

action of respondent No.4, they can have recourse to law. No costs.

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DEVINDER GUPTA. C.J.,

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M. NARAYANA REDDY. J.,

Dated: 28.12.2004.

VRK.

To

1 The Secretary to Government, Proh.,& Excise Department, Secretariat, Hyderabad.
2 The Commissioner of Proh., & Excise, Govt. of A.P., Nampally, Hyderabad-1.
3 The Dy. Commissioner, Proh., & Excise, Kakinada, East Godavari District.
4 The Superintendent of Proh.,& Excise, Kakinada, E.G.District.

5. The Officer concerned, Public Interest Litigation Cell, High Court Buildings, Hyderabad.

6. The Secretary, A.P. State Legal Aid & Advisory Board, High Court Buildings, Hyderabad.

7. The Secretary to Government of A.P., Home Department, Secretariat, Hyderabad.

8. Two CCs to G.P. for Excise & Prohibition, High Court Buildings, Hyderabad (OUT).

9. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE M. NARAYANA REDDY.

W.P.NO. 23499 OF 2004.

(Order of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 28.12.2004.